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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/615,574	07/13/2000	Jeremy Wertheimer	09765-015001	4957
26161	7590	11/04/2005	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			ROBINSON BOYCE, AKIBA K	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/615,574

Applicant(s)

WERTHEIMER ET AL.

Examiner

Akiba K. Robinson-Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 32-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30, 32-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. Due to communications filed 8/19/05, the following is a final office action.
Claims 1-19, and 21-28 have been amended. Claim 31 has been cancelled, and claims 33-37 have been added. Claims 1-30 and 32-37 are currently pending in this application and have been examined on the merits. The previous office action has been withdrawn and the following reflects the claims as amended.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. Claims 1-11, 16-29, 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dilks et al (US 3,622,995), in further view of Walker et al (US 6,112,185).

As per claims 1, 17, 21, Dilks et al discloses:

An availability predictor that produces a predicted answer for seating availability on a competitive flight to the airline flight/receiving by the computer system a request for availability of seating on an airline flight and executing in the computer system...to

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predict the seating availability on a competitive flight/produce an actual availability answer for a flight, (Col. 10, lines 20-22, means responsive to a request for a reservation for identifying reservation information for an accommodation through a code, where it is shown that an accommodation is an available seat on a flight in col. 12, lines 65-67, Col. 10, lines 23-26, providing reservation information in response to a request for a future accommodation or reservation).

An availability system that produces a predicted answer for seating availability on a... flight to the airline flight/executing in the computer system an algorithm to produce a predicted answer that predicts seating availability on a flight that is a competitive flight to the airline flight; determining in the computer system an actual availability answer for the airline flight/produce a potential, actual availability response for a flight/determine a predicted answer for seating availability on a competitor's flight that is a competitive flight to the airline flight,(col. 10, lines 17-19, providing information about actual reservations for accommodations stored in the system);

A computing system...to produce a decision with respect to the actual availability answer from the availability system based on comparing the predicted answer from the availability predictor and the actual availability answer from the availability system/comparing the predicted answer from the algorithm and the actual availability answer from the availability system to establish a decision with respect to the actual availability answer/compare the predicted answer and the actual availability answer to determine if the actual seat availability answer should be modified; and modify the actual availability answer if indicated by the compare instructions/send the actual seat

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availability answer, (Col. 9, lines 26-33, shows system is logic-controlled, w/ Col. 10, lines 26-28, comparing reservation code with stored reservations, where granting the reserved accommodation represents the decision).

Dilks et al doesn't specifically disclose that the flights are competitive, but does disclose a system for storing a plurality of different numbered reservations for accommodations in Col. 3, lines 71-73.

However, Walker et al discloses:

Competitive flights to the airline flight, (col. 8, lines 22-25, discussion of competitors). Walker et al discloses this limitation in an analogous art for the purpose of showing that different offer rules apply to airlines according to the effect that competitors have on those airlines.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate competitive flights into an availability prediction system with the motivation of showing that flights may or may not be available based on flights that competitors have to offer.

As per claims 2, 18, 22, Dilks et al discloses:

wherein the availability predictor predicts seating availability of the competitive flight of a competitor of an entity associated with the availability system, and the decision logic produces a bias that determines whether the actual availability answer from the availability system should be modified based upon a relative competitive position of the competitor to the entity associated with the availability system/wherein comparing produces a decision that is a bias that determined whether the actual

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availability answer should be modified based upon the relative competitive position of the competitor represented by the availability predictor, before the actual availability answer is returned in response to the request, (col. 9, lines 57-64, reservation change, where bias is represented by whether a new accommodation is available)

As per claims 3, 19, 23, Dilks et al discloses:

Modify/modifying the actual availability answer in accordance with the bias from the decision logic to modify the actual availability answer in accordance with the bias, (col. 9, lines 65-67, printing a ticket change notice).

As per claim 5, Dilks et al discloses:

Wherein the actual availability answer is dependent on the decision from the decision logic, (col. 9, lines 31-33, logic-controlled system).

As per claims 6, 25, 36, Dilks et al discloses:

Wherein the decision from the decision logic has a plurality of states (Col. 9, lines 32-39, deciding whether or not available, shows advisory of a different selection).

As per claims 7, 26, Dilks et al discloses:

Wherein one of the states is a neutral state that is does not tend to modify the answer received from the availability system (Col. 10, lines 7-9, if reservation is not confirmed or guaranteed, system refers passenger to an agent).

As per claims 8, 27, Dilks et al discloses:

Wherein one of states biases a actual availability answer towards answering that seat is available (Col. 9, lines 34-37, shows whether or not, indicating if the accommodation is available);

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As per claims 9, 28, Dilks et al discloses:

Wherein one of states biases a actual availability answer towards answering that seat is not available, (Col. 9, lines 34-37, shows whether or not indicating that the accommodation is not available)

As per claim 16, Dilks et al discloses:

Wherein decision returned changes the actual availability answer from the availability system (col. 9, lines 37-39, each available flight is displayed once accommodations are available).

As per claim 33, Dilks et al discloses:

Determine a predicted answer for seating availability on a competitor's flight that is a competitive flight to the airline flight, (Col. 10, lines 20-22, means responsive to a request for a reservation for identifying reservation information for an accommodation through a code, where it is shown that an accommodation is an available seat on a flight in col. 12, lines 65-67, Col. 10, lines 23-26, providing reservation information in response to a request for a future accommodation or reservation).

compare the predicted answer and the actual availability answer to determine if the actual seat availability answer should be modified, (Col. 9, lines 26-64, shows system is logic-controlled, and deciding whether a new accommodation is available for a reservation change).

Modify the actual availability answer in accordance with the compare instructions, (col. 9, lines 65-67, printing a ticket change notice).

Dilks et al doesn't specifically disclose that the flights are competitive, but does

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disclose a system for storing a plurality of different numbered reservations for accommodations in Col. 3, lines 71-73.

However, Walker et al discloses:

Competitive flights to the airline flight, (col. 8, lines 22-25, discussion of competitors). Walker et al discloses this limitation in an analogous art for the purpose of showing that different offer rules apply to airlines according to the effect that competitors have on those airlines.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to incorporate competitive flights into an availability prediction system with the motivation of showing that flights may or may not be available based on flights that competitors have to offer.

As per claim 34, Walker et al discloses:

Wherein the instructions to compare, bias the actual availability answer based upon a relative competitive position of the competitor according to the predicted answer, (col. 9, lines 57-64, reservation change, where bias is represented by whether a new accommodation is available).

4. Claims 4, 10, 11, 20, 24, 29, 35 and 37 are rejected under 35 U.S.C. 103(a) as being obvious over Dilks et al (US 3,622,995), in further view of Walker (US 6,112,185).

As per claims 4, 10, 11, 20, 24, 29, 35 and 37, Dilks et al fails to disclose wherein the decision logic determines whether the prediction from the availability predictor indicates that a competitor corresponding to the availability predictor is in a more

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favorable or less favorable competitive position than a position corresponding to the actual availability answer produced by the availability system/wherein a value of the state depends upon the relative competitive position of the competitor represented by the availability predictor/wherein the decision logic further comprises logic to determine whether the competitor's available booking codes are at a lower price than those that the availability system indicates the user of the system can offer, but does disclose a reservation system having means for storing a plurality of different numbered reservations for accommodations to be provided in col. 3, lines 70-73.

However, Walker et al '185 discloses:

wherein the decision logic determines whether the prediction from the availability predictor indicates that a competitor corresponding to the availability predictor is in a more favorable or less favorable competitive position than a position corresponding to the actual availability answer produced by the availability system/wherein a value of the state depends upon the relative competitive position of the competitor represented by the availability predictor/wherein the decision logic further comprises logic to determine whether the competitor's available booking codes are at a lower price than those that the availability system indicates the user of the system can offer, (Col. 8, lines 22-25, offer rules show price flexibility for a competitor and shows that this flexibility can have an effect on the customers choice of airline). Walker et al '185 discloses this limitation in an analogous art for the purpose of showing that price flexibility has an effect on a customer's decision for an airline competitor.

It would have been obvious to one of ordinary skill in the art at the time of the

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applicant's invention to disclose the above limitations with the motivation of indicating the level of competition that exists.

5. Claims 12, 13, and 30 are rejected under 35 U.S.C. 103(a) as being obvious over Dilks et al (US 3,622,995), in further view of Walker (US 6,112,185), and in further view of Lynch et al (US 6,119,094).

As per claims 12, 13, neither Dilks et al nor Walker '185 disclose wherein if the decision logic determines that the competitor's available booking codes are not at a lower price, then the system can return a bias towards making the seat unavailable/wherein if the decision logic determines that the competitor's available booking codes are not at a lower price, then the system can test whether an original query was for a low cost fare and return a bias towards making the seat not available if the original query was for a low fare, but Dilks et al does disclose a reservation system having means for storing a plurality of different numbered reservations for accommodations to be provided in col. 3, lines 70-73.

However, Lynch '094 discloses:

wherein if the decision logic determines that the competitor's available booking codes are not at a lower price, then the system can return a bias towards making the seat unavailable/wherein if the decision logic determines that the competitor's available booking codes are not at a lower price, then the system can test whether an original query was for a low cost fare and return a bias towards making the seat not available if the original query was for a low fare, (Col. 8, lines 27-32, [identifying within fare class restrictions]). Lynch '094 discloses this limitation in an analogous art for the

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purpose of identifying alternate low-cost travel arrangements.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to return a bias towards making a seat unavailable if the booking codes are not at a lower price with the motivation of not going outside of a price range and subjecting the customer to unnecessary costs.

As per claim 30, neither Dilks et al nor Walker '185 disclose wherein if the competitor's available booking codes are not at a lower price, then the instructions return a bias towards making the seat unavailable, but Dilks et al does disclose a reservation system having means for storing a plurality of different numbered reservations for accommodations to be provided in col. 3, lines 70-73.

However, Lynch '094 discloses:

wherein if the competitor's available booking codes are not at a lower price, then the instructions return a bias towards making the seat unavailable, (Col. 8, lines 27-32, [identifying within fare class restrictions]). Lynch '094 discloses this limitation in an analogous art for the purpose of identifying alternate low-cost travel arrangements.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to return a bias towards making a seat unavailable if the booking codes are not at a lower price with the motivation of not going outside of a price range and subjecting the customer to unnecessary costs.

6. Claims 14, 15, and 32 are rejected under 35 U.S.C. 103(a) as being obvious over Dilks et al (US 3,622,995), in further view of Walker (US 6,112,185), and in further view of Walker et al (US 5,897,620).

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As per claims 14, 15, 32, neither Dilks et al nor Walker '185 disclose wherein if the decision logic determines that the competitor's available booking codes are at a lower price than those being offered by the user of the system, the system returns a bias towards making the seat available/wherein the system receives a travel planning query, and if the decision logic determines that the competitor's available booking codes are at a lower price than those being offered by the user of the system, the system determines whether the travel planning query was for a high cost fare, and returns a bias towards making the seat available if for a high cost fare, but Dilks et al does disclose a reservation system having means for storing a plurality of different numbered reservations for accommodations to be provided in col. 3, lines 70-73.

However, Walker et al '620 discloses:

wherein if the decision logic determines that the competitor's available booking codes are at a lower price than those being offered by the user of the system, the system returns a bias towards making the seat available/wherein the system receives a travel planning query, and if the decision logic determines that the competitor's available booking codes are at a lower price than those being offered by the user of the system, the system determines whether the travel planning query was for a high cost fare, and returns a bias towards making the seat available if for a high cost fare, (col. 9, lines 18-22, [correcting for competitor forces by increasing inventory {seats available})). Walker et al '620 discloses this limitation in an analogous art for the purpose of showing that seats can be accommodated by adjusting the fare through a special fare listing).

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention that if the decision logic determines that the competitor's available booking codes are at a lower price than those being offered by the user of the system, the system returns a bias towards making the seat available/wherein the system receives a travel planning query, and if the decision logic determines that the competitor's available booking codes are at a lower price than those being offered by the user of the system, the system determines whether the travel planning query was for a high cost fare, and returns a bias towards making the seat available if for a high cost fare with the motivation of showing that seat availability can be accommodated accordingly.

Response to Arguments

7. Due to the amendment filed 8/19/05, the objection to claim 21 for grammatical errors has been removed by the examiner.

8. Due to the amendment filed 8/19/05, the 35 U.S.C. 112 rejection given to claim 1-30 and 32 have been withdrawn by the examiner.

9. Applicant's arguments filed 8/19/05 have been fully considered but they are not persuasive.

As per claims 1, 17 and 21, the applicant argues that Dilks et al does not disclose any of the features of claim 1. The applicant argues that Dilks et al does not disclose an availability predictor. However, Col. 10, lines 23-26, discloses providing reservation information in response to a request for a future accommodation or

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reservation. In this case, the system used provides information on the availability of a reservation for a future accommodation, and therefore predicts.

The applicant also argues that Dilks et al does not disclose an actual availability response for a flight. However, in Col. 10, lines 26-28, the reservation code is compared with stored reservations, where granting the reserved accommodation represents a response, and the reserved accommodation represents the actual availability.

The applicant argues that Walker et al does not cure the deficiencies of Dilks and that the combination of Dilks and Walker et al does not suggest "competitive flights". However, the Walker et al '185 patent was introduced to show that flights which are booked through a reservation system are in competition with one another. Since Dilks et al's system discloses a numbered reservation system for several flights, and Walker et al '185 discloses a reservations system for flights which are competitive, the combination of the Dilks et al and Walker et al '185 patent suggest "competitive flights".

Claims 4, 10, 11, 20, 24, 29, 12, 13, 30, 14, 15 and 32 are still rejected for reasons similar to those of claims 1, 17 and 21.

New claims 33-37 are rejected for reasons given above.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Tuesday 8:30am-5pm, and Wednesday, 8:30 am-12:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

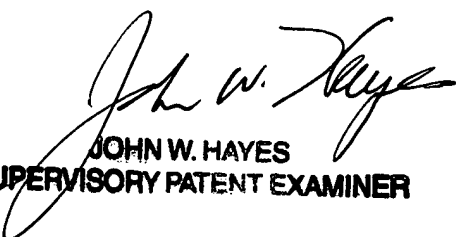
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



A. R. B.

October 26, 2005



JOHN W. HAYES
SUPERVISORY PATENT EXAMINER